

commission shall order interest to be paid on a rebate or surcharge as determined by the commission. An order of the commission approving or denying a temporary rate increase or decrease shall be based upon consistent standards appropriate for the nature of the case pending and shall be an intermediate agency action subject to judicial review under the Montana Administrative Procedure Act.

History: En. Sec. 11, Ch. 52, L. 1913; re-en. Sec. 3891, R.C.M. 1921; re-en. Sec. 3891, R.C.M. 1935; amd. Sec. 1, Ch. 115, L. 1975; amd. Sec. 1, Ch. 435, L. 1977; amd. Sec. 1, Ch. 467, L. 1977; R.C.M. 1947, 70-113(part); amd. Sec. 7, Ch. 588, L. 1983.

#### Cross-References

Montana Administrative Procedure Act — judicial review, Title 2, ch. 4, part 7.

**69-3-305. Deviations from scheduled rates, tolls, and charges.** (1) Except as provided in subsection (5)(a), a public utility may not:

(a) charge, demand, collect, or receive a greater or less compensation for a utility service performed by it within the state or for any service in connection with a utility service than is specified in the printed schedules, including schedules of joint rates, that may at the time be in force;

(b) demand, collect, or receive a rate, toll, or charge not specified in the schedules; or

(c) grant a rebate, concession, or special privilege to a consumer or user that, directly or indirectly, has or may have the effect of changing the rates, tolls, charges, or payments.

(2) The rates, tolls, and charges named in the printed schedules are the lawful rates, tolls, and charges until the rates, tolls, and charges are changed, as provided in this chapter.

(3) The commission may order refunds or credits of rates, tolls, or charges collected in violation of this section and may order payment of interest at a reasonable rate on the refunded amount.

(4) The provisions of this section do not prohibit the sharing of profits or revenues with customers in conjunction with an alternative form of regulation approved under 69-3-809.

(5) (a) A provider of regulated telecommunications service may offer, for a limited period of time, rebates, price reductions, or waivers of charges in conjunction with promotions, market trials, or other sales-related activities that are common business practices. Promotional pricing for services to end users does not require advance approval of the commission. Informational price lists must be filed with the commission on or before the date that the promotion begins.

(b) A public utility providing electricity or natural gas may offer grants and subsidized loans to install energy conservation and nonfossil forms of energy generation systems in dwellings.

(c) The commission may define the appropriate scope of promotions, rebates, market trials, and grants and subsidized loans, either by rule or in response to complaints. The commission may determine whether a particular sales activity or grant or subsidized loan program under this subsection is unfairly discriminatory or is not cost-effective. Costs and expenses incurred or revenue foregone with respect to sales activities and grant and subsidized loan programs that the commission determines are unfairly discriminatory or not cost-effective are the responsibility of the provider's shareholders in rates set by the commission.

(6) A public utility violating the provisions of this section is subject to the penalty prescribed in 69-3-206. However, this does not have the effect of suspending, rescinding, invalidating, or in any way affecting existing contracts.

History: En. Sec. 12, Ch. 52, L. 1913; re-en. Sec. 3892, R.C.M. 1921; re-en. Sec. 3892, R.C.M. 1935; R.C.M. 1947, 70-114; amd. Sec. 1, Ch. 327, L. 1983; amd. Sec. 6, Ch. 210, L. 1991; amd. Sec. 1, Ch. 207, L. 1993; amd. Sec. 2, Ch. 535, L. 1993; amd. Sec. 29, Ch. 349, L. 1997; amd. Sec. 1, Ch. 103, L. 2007.

#### Cross-References

Prohibition against laws impairing contracts, Art. II, sec. 31, Mont. Const.

**69-3-306. Classification of service.** (1) The commission may prescribe classifications of the service of all public utilities. Such classifications may take into account the quantity used, the time when used, and any other reasonable consideration. Each public utility is required to conform its schedule of rates, tolls, and charges to such classifications.

(2) The commission shall prescribe a declining block rate structure for electric service, when cost-justified.

History: En. Sec. 13, Ch. 52, L. 1913; re-en. Sec. 3893, R.C.M. 1921; re-en. Sec. 3893, R.C.M. 1935; R.C.M. 1947, 70-115; amd. Sec. 1, Ch. 517, L. 1985.